

BEFORE THE ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

IN THE MATTER OF THE)
COMPLAINT AGAINST:)
DAVID M CHESNUT, CPA)
CERTIFICATE NO. 5518)
RESPONDENT.)

CASE NO. 16-7

FINAL ORDER

THIS CAUSE came to be heard before the Alabama State Board of Public Accountancy ("the Board"), on September 16, 2016, in Montgomery, Alabama. Mr. David M. Chesnut offered a signed Consent Agreement and Waiver, which was ACCEPTED by the Board and is incorporated herein by reference.

It is therefore ORDERED, ADJUDGED and DECREED by the Board that the provisions set forth in the aforesaid Consent Agreement are hereby approved and that the terms and conditions thereof shall become effective immediately.

DONE this 16th day of September 2016.

ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

CONCUR:

MS. SHEPPARD-HARRIS,
MESSRS. COMER, SINGLETARY,
GRICE AND MADISON

RECUSED:

MR. BARRANCO AND MR.
BLACKMON

ATTEST:



D. Boyd Busby, CPA
Executive Director
September 20, 2016

BEFORE THE ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

IN THE MATTER OF)
THE COMPLAINT AGAINST:)
DAVID M. CHESNUT, CPA) CASE NO. 16-7
CERTIFICATE NO. 5518)
)
RESPONDENT.)

CONSENT AGREEMENT

The Alabama State Board of Public Accountancy, ("Board"), having evidence that David M. Chesnut (Respondent) is in violation of the Board's *Rules of Professional Conduct* governing the Accounting Profession, specifically, Rule 30-X-6-.03(1)(a) (*Professional Competence*), Rule 30-X-6-.03(1)(b) (*Due Professional Care*), Rule 30-X-6-.03(1)(c) (*Planning and Supervision*), and Rule 30-X-6-.03(1)(d) (*Sufficient Relevant Data*), Rule 30-X-6-.03(3) (*Accounting Principles*), Respondent, desiring to avoid the necessity of a formal hearing, does hereby enter into this Consent Agreement. By waiver dated August 18th, 2016 (attached), Respondent acknowledged his understanding that he had a right to a formal hearing in this matter, and by his signature, knowingly waived such right.

ALLEGATIONS

The investigative committee of the Board hereby proffers the following charges and factual allegations in support of this Consent Agreement.

1. Respondent, David M. Chesnut, is a Certified Public Accountant in the State of Alabama, and was so registered at all times relevant to this complaint.
2. Respondent undertook to prepare for S. M. B. C. Inc. 401(k) Plan, an audit report for the year ending December 31, 2011, of that company for submission to the United States Department of Labor in compliance with the Employment Retirement Income Security Act.

Respondent subsequently prepared and submitted to the Department of Labor documents comprising an audit report intended to be considered as compliance with this act.

3. The audit report submitted was inadequate in that it reflected a lack of the professional competence required of a certified public accountant; a lack of the due professional care required of a certified public accountant; a lack of planning and supervision required of a certified public accountant; a lack of sufficient relevant data obtained by the certified public accountant; and a lack of compliance with the applicable generally accepted accounting principles promulgated by the American Institute of Certified Public Accountants.

4. On October 23, 2015, the Respondent entered into a Settlement Agreement between The Professional Ethics Committee of the American Institute of Certified Public Accountants and the Alabama Society of CPAs (attached).

5. On July 1, 2016, the Respondent signed an acknowledgement letter (attached) whereby the Respondent acknowledges that the conclusion contained in the Settlement Agreement are factual statements and all conclusion contained in the document regarding the EBP audit are true and correct. The conclusions reached in the Settlement Agreement would support a finding that the Respondent violated the Board's *Rules of Professional Conduct* governing the Accounting Profession, specifically, Rule 30-X-6-.03(1)(a) (*Professional Competence*), Rule 30-X-6-.03(1)(b) (*Due Professional Care*), Rule 30-X-6-.03(1)(c) (*Planning and Supervision*), Rule 30-X-6-.03(1)(d) (*Sufficient Relevant Data*), and Rule 30-X-6-.03(3) (*Accounting Principles*).

STIPULATIONS

6. The Board has acquired and maintains jurisdiction over Respondent by virtue of the licensing and disciplinary provisions governing the Public Accounting Profession, *Code of Alabama* 1975, § 34-1-1 *et seq.*

7. Respondent has been fully advised of his rights in this matter, including the right to a fair hearing pursuant to the Alabama Administrative Procedure Act, *Code of Alabama* 1975, § 41-22-20, *et seq.* and *Code of Alabama* 1975, § 34-1-1 *et seq.*

8. Respondent understands that by submitting to this Consent Agreement he is waiving his rights as set forth herein, thus enabling the Board to adopt and enter this Consent Agreement without further process.

9. Respondent understands that the terms of this Consent Agreement are subject to adoption or rejection by the Board. It is understood that, in deciding whether to enter into the Consent Agreement, the Board may receive oral and/or written communications from its staff, experts, attorney, or others regarding the allegations set forth above. Such communications shall not disqualify the Board, staff, experts, attorney, or others from participating in this or other matters affecting Respondent, including a hearing, if necessary, on the underlying charges, which provide the basis for this Consent Order.

10. If it is determined by the Board or its staff that Respondent has not fully complied with the terms and conditions of this Consent Agreement, Respondent understands that the Board may file a formal complaint and hold a disciplinary hearing against Respondent on the charges or factual allegations recited herein.

ORDER

Based upon the above referenced Allegations and Stipulations and Waiver attached hereto, Respondent stipulates that the Board may enter the following disciplinary

order. The Board hereby censures the Respondent. In addition, Respondent agrees to pay within 30 days of the execution of this agreement an administrative fine to the Board by cashier's check or money order in the amount of \$1,000 per violation for a total of \$5,000.

FOR THE BOARD

8/29/16
DATE

Billington M. Garrett
BILLINGTON M. GARRETT, Esq.
Assistant Attorney General, Office of the
Attorney General

FOR THE RESPONDENT

8/18/2016
DATE

David M. Chesnut
DAVID M. CHESNUT
ERIS BRYAN-PAUL
ERIS BRYAN-PAUL
Attorney for the Respondent

State of Alabama

County of Etowah

Subscribed and sworn to before me, a Notary Public on this 18th day of August 2016.

Mary Jensen
Notary Public
My Commission Expires: 4-12-18

WAIVER

I have read the Consent Agreement set forth above and understand and agree to the terms and conditions set forth therein. I understand that I am waiving certain rights accorded to me by the Alabama Administrative Procedure Act, *Code of Alabama* 1975, § 41-22-1 et seq., and the Public Accountancy Act of 1973, *Code of Alabama* 1975, § 34-1-1 et seq., including the right to a hearing in this matter, the right to confront and cross examine witnesses who would testify against me, the right to testify and contest the charges and allegations which could be brought against me, the right to petition for reconsideration of the Board's decision and the right to seek review of that decision by the Courts of this State. I understand that by entering into this Consent Agreement I am enabling the Board to issue an order imposing upon me the conditions recited herein without further process or proceedings. I knowingly and intelligently waive all of the above rights and any other rights which may be accorded to me by the Alabama Administrative Procedure Act, *Code of Alabama* 1975, § 41-22-1 et seq., the Public Accountancy Act of 1973, *Code of Alabama* 1975, § 34-1-1 et seq., or other laws. I further understand that, if it is determined by the Board or its staff that I have not fully complied with the terms and conditions of the above Consent Agreement, the Board may file a formal complaint and hold a disciplinary hearing against me based upon the allegations recited in the Consent Agreement.

8/18/2016
DATE

8/18/2016
DATE

David M. Chesnut
DAVID M. CHESNUT
[Signature]
WITNESS

State of Alabama
County of Etowah

Subscribed and sworn to before me, a Notary Public on this 18th day of August 2016.

Mary E Jensen
Notary Public
My Commission Expires: 4-12-18